

ORDINANCE NO. 758

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA, ADDING TITLE 18 CHAPTER 18.439 CLUSTER UNIT DEVELOPMENT TO THE COLUMBIA FALLS MUNICIPAL CODE.

WHEREAS, the City Council desires to add Chapter 18.439 Cluster Unit Development to provide another zoning tool that respects the overall density of a property but also preserves more farm and open space areas.

WHEREAS, the Columbia Falls City-County Planning Board and Zoning Commission conducted a public hearing on the proposed text amendments on Tuesday, November 10, 2015 and recommended adoption of the text amendments; and

WHEREAS, the City Council has determined, upon conducting a subsequent hearing on December 7, 2015, that said amendments to the Columbia Falls Municipal Code are in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA FALLS, MONTANA AS FOLLOWS:

Section One. Section Amended: Chapter 18.439 Columbia Falls Municipal Code is hereby added as shown on Exhibit "A" attached hereto.

Section Two. Inconsistent Provisions: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section Three. Severability: The provisions of this Ordinance are severable. If any provision of this Ordinance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision.

Section Four. Effective Date: This Ordinance shall become effective thirty (30) days after its final passage and approval by the City Council of the City of Columbia Falls, Montana.

PASSED AND APPROVED BY THE CITY COUNCIL OF COLUMBIA FALLS, MONTANA THIS 4th DAY OF JANUARY, 2016, THE COUNCIL VOTING AS FOLLOWS:

AYES: Lovering, Petersen, Piper, Shepard, Fisher, Karper and Barnhart

NOES: None

ABSENT: None

City Clerk

APPROVED BY THE MAYOR OF COLUMBIA FALLS, MONTANA, THIS 4th DAY OF JANUARY, 2016.

Mayor

ATTEST:

City Clerk

EXHIBIT "A"

18.349 CLUSTER UNIT DEVELOPMENT

18.349.010 Definition.

"Cluster development" means a subdivision with lots clustered in a group of lots that is designed to concentrate building sites on smaller lots in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities and/or creating a large open space tract that preserves agricultural lands or sensitive areas important to wildlife and wildlife habitat,.

"Cluster Area" means the total area of the development less the combined area of dedicated public right-of-way and area set aside as open space.

18.349.020 Permitted uses in a residential cluster development

Cluster unit development may overlay suburban and urban residential zones.

Cluster unit developments shall be subject to the following:

A. Minimum area of the development:

1. Within districts zoned SAG-20, SAG-10 or SAG-5, the minimum lot size permitted in the respective district based on the proposed density.
2. Within other districts zoned residential, the minimum area is 5 gross acres.

B. Types of buildings and uses: Any uses that are permitted in the underlying district for which the planned unit development is proposed. In addition the following uses may be permitted:

1. In residential zones, other than SAG zones, multiple units may be placed in a single building, except the number of multi-family units within one building may not exceed ten (10) units and the total number of multifamily units within the cluster development does not exceed thirty percent (30%) of the total of all units;
2. Within districts zoned SAG grazing and farming is permitted.

18.349.030 Bulk and dimensional requirements

A. The overall density of the cluster development shall not exceed the density allowed in the underlying district, except as follows:

1. The density may be increased by 1.2 (one and two tenths) units for each one unit of qualifying affordable housing that is either provided within the development or an approved contribution to a

qualified affordable housing project elsewhere within the jurisdiction; such density increase not to exceed ten percent (10%) of the allowed density.

2. The density may be increased by an additional amount, not to exceed fifteen percent (15%) of the allowed density, where all of the open space is enrolled in an approved conservation easement held by the local government with jurisdiction, and the general public is provided reasonable access.
 3. The base density in districts zoned SAG may be a ratio of 1.5:1 (one and one half to one) and may be increased in accordance with 1 and 2.
- B. A cluster development may have more than one cluster area but no cluster area shall have more than fifty percent (50%) of the total cluster development lots, nor fewer than five (5) lots.
 - C. The minimum size of a lot of record within a cluster development shall be not less than the cluster area divided by the total number of units permitted but not less than the minimum area that may be served by approved potable water and sanitary sewer system, nor less than 3,000 square feet. The size of a subplot for two family or multifamily dwellings may not be less than 1,500 square feet.
 - D. The maximum lot coverage by all buildings, building height, and parking requirements, as specified for the district, shall be applied to the cluster development as a whole and not to individual lots of record within the cluster development.
 - E. Building or primary uses shall not be placed closer than five (5) feet of any side lot property line.
 - F. Front and rear yard widths shall be either that specified for the district or reduced to not less than twenty (20) feet by the governing body as part of the subdivision review and approval process.
 - G. Not more than fifty percent (50%) of the cluster development site shall be devoted to lots, parking facilities, streets, buildings, and accessory buildings and right-of-way. The remaining fifty percent (50%) shall remain as open space.
 - H. A landscape buffer abutting the boundary of the cluster development and the cluster area(s) shall be provided where the distance between the boundary and closest point of the cluster area perimeter is less than thirty (30) feet:
 1. The buffer shall be a width that conforms to the minimum front yard setback requirements for the underlying district.
 2. Such required buffer shall not be used as parking nor storage.
 3. Perpetual maintenance of the buffer shall be in accordance with prescriptions in this chapter for homeowner's common areas.

18.349.030 Creation and Maintenance of Required Open Space

- A. At least fifty percent (50%) of the total gross area of the cluster development site shall be set aside as open space.
- B. The open space must be enrolled in an irrevocable conservation easement or protected by a Deed Restriction that prohibits further subdivision of the open space unless lifted by the City Council.
- C. Maintenance of the open space shall be secured in the following manner:
 - 1. Adequate provisions shall be made for the perpetual maintenance of all open space areas by the inclusion of covenants running with the land in the deeds or other instruments of conveyance, delineating such open areas. The covenant shall require one of the following options:
 - a. Obligating purchasers to participate in a homeowners association and to support maintenance of the open space areas by paying to the association assessments sufficient for such maintenance and subjecting their properties to a lien for enforcement of payments of the respective assessments;
Empowering the governing body as well as purchasers in the development to enforce the covenants in the event of failure of compliance; and
Providing for an agreement that if the governing body is required to perform any maintenance work prescribed herein above, said purchasers would pay the cost thereof and the same shall be a lien upon their properties until said cost has been paid.
Assurance that such covenants will be included in the deeds or other instruments of conveyance shall be evidenced by the recording in the County Clerk and Recorder's Office of Flathead County, Montana, of a declaration providing for perpetual maintenance of the open space areas, as prescribed above and identifying the tract and each lot therein. The declaration shall be included in the deed or other instrument of conveyance of each lot of record and shall be made binding on all purchasers, provided that such declaration may, as to subsequent conveyance other than the initial conveyance of each lot of record, be incorporated by reference in the instrument of conveyance.
 - b. The deed restriction provides for the land owner or developer to retain the open space parcel and maintain the property in agricultural use or managed open space.
- D. All portions of the open space shall be uninterrupted, except for minor and minimal intrusion of right-of-way corridors. Cluster areas should be located in areas that require minimal disturbance to the open space.

- E. During construction of streets, utility lines or lots, the work and any surface disturbance shall be confined to areas outside the open space area.
- F. Open space must include sensitive areas within the cluster development site including: areas of high ground water that seasonally surfaces; wetland; floodplain; areas within one hundred (100) feet of high water of a stream (other than ephemeral streams), river, or surface water body; slopes that are steeper than 25% if the elevation difference from top to toe of slope is greater than thirty (30) vertical feet; forested areas bearing healthy trees; and other sensitive areas that provide wildlife habitat.

18.349.060 Exemption or Waiver of Specific Regulations

- A. Cluster development is exempt from park land dedication provisions by establishment of the open space lot.
- B. Required right-of-way widths may be reduced to forty (40) feet and street developed width to twenty two (22) feet. The requirement for providing curbs and sidewalks may be waived. Such reduction and waiver are applicable to a cluster area that conforms to the following:
 - 1. An approved walk path is provided on one side of the street separated from the street by a minimum five (5) foot wide landscape buffer.
 - 2. Residential lots need not abut a street provided that a common front court yard is provided and off-street parking provided in an adjacent area. The court yard must meet the following prescription:
 - a. the court shall be not less than forty (40) feet wide,
 - b. the furthest front yard property line shall be not more than one hundred twenty (120) feet from the nearest front street access,
 - c. the court front street entrance shall be not more than one hundred (100) feet from the nearest fire hydrant,
 - d. only primary use building shall front the common court; and
 - e. primary use building shall not exceed a total count of ten (10) buildings.

18.349.070 Application procedure.

The application subdivision shall be executed by the individual(s) whose successors and assignees shall be responsible for carrying out the requirements and obligations of the cluster subdivision.

- A. Submit complete subdivision application, application fee and site plan; size and quantity of site plan copies as specified in the application.
- B. The separate site plan(s) including the following shall accompany the preliminary plat:
 - 1. Total acreage, present zoning classification and zoning classification of all adjoining districts;
 - 2. Density in dwelling units per gross acre;
 - 3. Location, size, height and number of stories, use or uses to be contained in each existing or proposed structure;
 - 4. Location, width, surfacing and layout of all streets, parking areas and pedestrian walks;
 - 5. Location and number of proposed parking spaces;
 - 6. Location and height of all fences, walls and screen plantings;
 - 7. Location of all common spaces and facilities; and
 - 8. Proposed landscaping.
- C. The applicant shall furnish:
 - 1. The proposed time schedule for the completion of the development or the phasing thereof;
 - 2. A copy of all proposed covenants, restrictions and easements;
 - 3. A copy of the proposed articles of incorporation and by-laws of any corporation and/or homeowners associations to be formed; and
 - 4. Any other information that the zoning commission or the city council may deem necessary.
- D. The preliminary plat shall be prepared in accordance to requirements of the subdivision regulations and shall include space for certification of approval by the city council.

18.349.080 Approval of the planned unit development.

The city council shall approve a cluster development with the preliminary plat by resolution which shall incorporate by reference all documents included in the site plan and the recommendation of the

planning board. The final plat shall be submitted and approved by the city council and recorded in the County Courthouse. The face of the final plat shall bear the following language:

Uses and development within this plat shall be in conformance with the Cluster Development plan approved by the City of Columbia Falls by Resolution #_____ enacted _____, 20__.

I, _____, Owner of the property set forth herein, do hereby agree that I will develop the property in accordance with the approved Cluster Development Plan.

18.349.090 Prior to construction

- A. Prior to the construction of public infrastructure the developer shall submit verification that the service provider has reviewed and approved the construction plan.
- B. Prior to the issuance of a building permit (if such a permit is required) the developer shall submit verification that the building(s) are in compliance with the approved Cluster Development Plan.